

CHAPTER 154**MOBILE HOMES AND OTHER PROPERTY — RIGHTS — ABANDONMENT — LEASES**
S.F. 398

AN ACT relating to the rights of mobile home, personal property, and real property owners and claimants in actions for abandonment and under a lease agreement.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 103A.9, subsection 4, Code 1993, is amended to read as follows:

4. All factory-built structures, without regard to manufacture date, shall be installed in accordance with the code in the governmental subdivisions which have adopted the state building code or any other building code. However, a governmental subdivision shall not require that a factory-built structure, that was manufactured in accordance with federally mandated standards, be renovated in accordance with the state building code or any other building code which the governmental subdivision has adopted when the factory-built structure is being moved from one lawful location within the state to another unless such required renovation is in conformity with those specifications for the factory-built structure which existed when it was manufactured or the factory-built structure is being rented for occupancy.

Existing factory-built structures not constructed to be in compliance with federally mandated standards may be moved from one established mobile home park to another within the state and shall not be required to be renovated to comply with the state building code or any other building code which the governmental subdivision has adopted unless the factory-built structure is being rented for occupancy or has been declared a public nuisance according to standards generally applied to housing.

Sec. 2. Section 321.47, unnumbered paragraph 1, Code 1993, is amended to read as follows:

In the event of the transfer of ownership of a vehicle by operation of law as upon inheritance, devise or bequest, order in bankruptcy, insolvency, replevin, foreclosure or execution sale, abandoned vehicle sale, or when the engine of a motor vehicle is replaced by another engine, or a vehicle is sold or transferred to satisfy an artisan's lien as provided in chapter 577, a landlord's lien as provided in chapter 570, or a storage lien as provided in chapter 579, a judgment in an action for abandonment of a mobile home as provided in chapter 555B, or repossession is had upon default in performance of the terms of a security agreement, the county treasurer in the transferee's county of residence, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof to the county treasurer of ownership and right of possession to the vehicle and upon payment of a fee of ten dollars and the presentation of an application for registration and certificate of title, may issue to the applicant a registration card for the vehicle and a certificate of title to it. The persons entitled under the laws of descent and distribution of an intestate's property to the possession and ownership of a vehicle owned in whole or in part by a decedent, upon filing an affidavit stating the name and date of death of the decedent, the right to possession and ownership of the persons filing the affidavit, and that there has been no administration of the decedent's estate, which instrument shall also contain an agreement to indemnify creditors of the decedent who would be entitled to levy execution upon the motor vehicle to the extent of the value of the motor vehicle, are entitled upon fulfilling the other requirements of this chapter, to the issuance of a registration card for the interest of the decedent in the vehicle and a certificate of title to it. If a decedent dies testate, and either the will is not probated or is admitted to probate without administration, the persons entitled to the possession and ownership of a vehicle owned in whole or in part by the decedent may file an affidavit, and upon fulfilling the other requirements of this chapter, are entitled to the issuance of a registration card for the interest of the decedent in the vehicle and a certificate of title to the vehicle. The affidavit shall contain the same information and indemnity agreement as is required in cases of intestacy pursuant to this section. No requirement of chapter 450 or 451 shall be considered satisfied by the filing of the affidavit provided for

in this section. If, from the records in the office of the county treasurer, there appear to be any liens on the vehicle, the certificate of title shall contain a statement of such the liens unless the application is accompanied by proper evidence of their satisfaction or extinction. Evidence of extinction may consist of, but is not limited to, an affidavit of the applicant stating that a security interest was foreclosed as provided in Uniform Commercial Code, chapter 554, article 9, part 5.

Sec. 3. Section 335.30, Code 1993, is amended to read as follows:

335.30 MANUFACTURED HOME.

A county shall not adopt or enforce zoning regulations or other ordinances which disallow the plans and specifications of a proposed residential structure solely because the proposed structure is a manufactured home. However, a zoning ordinance or regulation shall require that a manufactured home be located and installed according to the same standards, including but not limited to, a foundation system, set-back, and minimum square footage which would apply to a site-built, single family dwelling on the same lot. A zoning ordinance or other regulation shall not require a foundation system for a manufactured home which is incompatible with the structural design of the manufactured home structure. When units are located outside a mobile home park, requirements may be imposed which ensure visual compatibility of the foundation system with surrounding residential structures. As used in this section, "manufactured home" means a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. sec. 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home as defined in section 435.1 is not a manufactured home, unless it has been converted to real property as provided in section 435.26, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.

Sec. 4. Section 414.28, Code 1993, is amended to read as follows:

414.28 MANUFACTURED HOME.

A city shall not adopt or enforce zoning regulations or other ordinances which disallow the plans and specifications of a proposed residential structure solely because the proposed structure is a manufactured home. However, a zoning ordinance or regulation shall require that a manufactured home be located and installed according to the same standards, including but not limited to, a foundation system, set-back, and minimum square footage which would apply to a site-built, single family dwelling on the same lot. A zoning ordinance or other regulation shall not require a foundation system for a manufactured home which is incompatible with the structural design of the manufactured home structure. When units are located outside a mobile home park, requirements may be imposed which ensure visual compatibility of the foundation system with surrounding residential structures. As used in this section, "manufactured home" means a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. sec. 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home as defined in section 435.1 is not a manufactured home, unless it has been converted to real property as provided in section 435.26, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.

Sec. 5. Section 535.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. This section does not apply to a charge imposed for late payment of rent. However, in the case of a residential lease, a late payment fee shall not exceed three dollars a day for the first five days the rent is late and one dollar a day for the next twenty-five days.

Sec. 6. Section 555B.1, subsection 1, Code 1993, is amended to read as follows:

1. "Claimant" includes but is not limited to any government subdivision with authority to levy a tax on abandoned personal property.

Sec. 7. Section 555B.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 6. "Abandoned" means abandoned as provided in section 562B.27, subsection 1.

Sec. 8. Section 555B.2, subsection 1, Code 1993, is amended to read as follows:

1. A real property owner may remove or cause to be removed a mobile home and other personal property which is unlawfully parked, placed, or abandoned on that real property, and may cause the mobile home and personal property to be placed in storage until the owner of the personal property pays a fair and reasonable charge for removal, storage, or other expense incurred, including reasonable attorneys' fees, or until a judgment of abandonment is entered pursuant to section 555B.8 provided that there is no lien on the mobile home or personal property other than a tax lien pursuant to chapter 435. For purposes of this chapter, a lien other than a tax lien exists only if the real property owner receives notice of a lien on the standardized registration form completed by a tenant pursuant to section 562B.27, subsection 3, or a lien has been filed in state or county records on a date before the mobile home is considered to be abandoned. The real property owner or the real property owner's agent is not liable for damages caused to the mobile home and personal property by the removal or storage unless the damage is caused willfully or by gross negligence.

Sec. 9. Section 555B.2, subsection 2, paragraph a, Code 1993, is amended to read as follows:

a. If the mobile home owner can be determined, and if the real property owner so requests, the sheriff shall notify the mobile home owner of the removal by restricted certified mail. If the mobile home owner cannot be determined, and the real property owner so requests, the sheriff shall give notice by one publication in one newspaper of general circulation in the area county where the mobile home and personal property were unlawfully parked, placed, or abandoned. If the mobile home and personal property have not been claimed by the owner within six months after notice is given, the mobile home and personal property shall be sold by the sheriff at a public or private sale. After deducting costs of the sale the net proceeds shall be applied to the cost of removal, and storage of the property, notice, attorney fees, and any other expenses incurred for preserving the mobile home and personal property, including any rent owed by the mobile home owner to the real property owner in connection with the presence of the mobile home on the real property. The remaining net proceeds, if any, shall be paid to the county treasurer to satisfy any tax lien on the mobile home. The remainder, if any, shall be ~~paid to~~ retained by the county treasurer.

Sec. 10. Section 555B.3, Code 1993, is amended to read as follows:

555B.3 ACTION FOR ABANDONMENT — JURISDICTION.

A real property owner not requesting notification by the sheriff as provided in section 555B.2 may bring an action alleging abandonment in the court within the county where the real property is located provided that there is no lien on the mobile home or personal property other than a tax lien pursuant to chapter 435. The action shall be tried as an equitable action. Unless commenced as a small claim, the petition shall be presented to a district judge. Upon receipt of the petition, either the court or the clerk of the district court shall order set a date for a hearing not later than fourteen days from the date of the order receipt of the petition.

Sec. 11. Section 555B.4, subsection 3, Code 1993, is amended to read as follows:

3. If a tax lien exists on the mobile home or personal property at the time an action for abandonment is initiated, the real property owner shall notify the county treasurer of each county in which a tax lien appears by restricted certified mail sent not less than ten days before the hearing. The notice shall describe the mobile home and shall state the date and time at which the hearing is scheduled, and the county treasurer's right to assert a claim to the mobile home at the hearing. The notice shall also state that failure to assert a claim to the mobile home

is deemed a waiver of all right, title, claim, and interest in the mobile home and is deemed consent to the sale or disposal of the mobile home.

Sec. 12. Section 555B.10, subsection 1, Code 1993, is amended to read as follows:

1. A real property owner who disposes of a mobile home or personal property in accordance with this chapter is not liable for damages by reason of the removal, sale, or disposal of the mobile home and personal property unless the damage is caused willfully or by gross negligence. Upon a motion to the district court and a showing that the real property owner is not proceeding in accordance with this chapter, the court may enjoin the real property owner from proceeding further and a determination for the proper disposition of the mobile home and personal property shall be made. If disposition of the mobile home or personal property has not occurred in accordance with this chapter, the ~~personal property~~ owner thereof has a right to recover from the real property owner, any loss caused by failure to comply with this chapter. The burden of proof shall be upon the mobile home or personal property owner to show that the real property owner has not complied with this chapter in disposing of a mobile home or personal property.

Sec. 13. Section 562A.12, subsection 1, Code 1993, is amended to read as follows:

1. A landlord shall not demand or receive as ~~rental~~ a security deposit and ~~prepaid rent~~ an amount or value in excess of two months' rent.

Sec. 14. Section 562B.13, subsection 1, Code 1993, is amended to read as follows:

1. A landlord shall not demand or receive as ~~rental~~ a security deposit an amount or value in excess of two months' rent.

Sec. 15. Section 562B.25, subsection 1, Code 1993, is amended to read as follows:

1. Except as provided in this chapter, if there is a material noncompliance by the tenant with the rental agreement, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days. If there is a noncompliance by the tenant with section 562B.18 materially affecting health and safety, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days. However, if the breach is remediable by repair or the payment of damages or otherwise, and the tenant adequately remedies the breach prior to the date specified in the notice, the rental agreement will not terminate. If substantially the same act or omission, which constituted a prior noncompliance of which notice was given, recurs within six months, the landlord may terminate the rental agreement upon at least fourteen days' written notice specifying the breach and the date of termination of the rental agreement.

Sec. 16. Section 562B.27, subsection 1, Code 1993, is amended to read as follows:

1. A tenant is considered to have abandoned a mobile home when the tenant has been absent from the mobile home without reasonable explanation for thirty days or more during which time there is either a default of rent three days after rent is due, or the rental agreement is terminated pursuant to section 562B.25. A tenant's return to the mobile home does not change its status as abandoned unless the tenant pays to the landlord all costs incurred for the mobile home space, including costs of removal, storage, notice, attorneys' fees, and all rent and utilities due and owing.

Sec. 17. Section 562B.27, subsection 2, paragraph b, Code 1993, is amended to read as follows:

b. If there is no lien on the mobile home other than a lien for taxes, the landlord ~~shall~~ may follow the procedure in chapter 555B to dispose of the mobile home.

Sec. 18. Section 631.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The district court sitting in small claims has concurrent jurisdiction of an action for abandonment of a mobile home or personal property pursuant to section 555B.3, if no money judgment in excess of two thousand dollars is sought. If commenced under this chapter, the action is a small claim for the purposes of this chapter.

Sec. 19. Section 631.4, subsection 2, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. If personal service cannot be made upon each defendant, as provided in rule of civil procedure 56.1, the plaintiff may elect to post, after at least three attempts to perfect service upon each defendant, one or more copies of the original notice upon the real property being detained by each defendant at least five days prior to the date set for hearing. In such instances, the plaintiff shall also mail, by certified mail and first class mail, to each defendant, at the place held out by each defendant as the place for receipt of such communications or, in the absence of such designation, at each defendant's last known place of residence, a copy of the original notice at least five days prior to the date set for hearing. Under this paragraph, service shall be deemed complete upon each defendant by the filing with the clerk of the district court of one or more affidavits indicating that a copy of the original notice was both posted and mailed to each defendant as provided in this paragraph.

Sec. 20. Section 631.4, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. ACTIONS FOR ABANDONMENT OF MOBILE HOMES OR PERSONAL PROPERTY PURSUANT TO CHAPTER 555B.

a. In an action for abandonment of a mobile home or personal property, the clerk shall set a date, time, and place for hearing, and shall cause service to be made as provided in this subsection.

b. Original notice shall be served personally on each defendant as provided in section 555B.4.

Sec. 21. Section 631.5, unnumbered paragraph 1, Code 1993, is amended to read as follows:

This section ~~shall apply~~ applies to all small claims except actions for forcible entry or detention of real property and actions for abandonment of mobile homes or personal property pursuant to chapter 555B.

Sec. 22. Section 648.19, Code 1993, is amended to read as follows:

648.19 NO JOINDER OR COUNTERCLAIM — EXCEPTION.

An action of this kind shall not be brought in connection with any other action, with the exception of a claim for rent or recovery as provided in sections 562A.24, 562A.32, 562B.22, 562B.25, ~~or 562B.27,~~ or 555B.3 nor shall it be made the subject of counterclaim. When joined with an action for rent or recovery as provided in section 555B.3, 562A.24, 562A.32, 562B.22, 562B.25, or 562B.27, notice of hearing as provided in section 648.5 is sufficient.

Approved May 21, 1993